

United States of America)
) Cr. No. 3:04-547
 vs.)
)
 Kelvin Albertus Baxter,) **O R D E R**
)
 Defendant.)
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On August 5, 2006, Defendant Kelvin Albertus Baxter pleaded guilty to conspiracy to possess with intent to distribute, and to distribute, 50 grams or more of cocaine base, 5 kilograms or more of cocaine and 100 kilos or more of marijuana (Count 1); and possession of a firearm during and in relation to a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A) (Count 7). On March 14, 2006, Defendant was sentenced to incarceration for a period of 322 months, consisting of 262 months as to Count 1 and 60 months as to Count 7, to run consecutively, to be followed by a term of supervised release for 5 years. Judgment was entered on March 30, 2006. On December 10, 2008, an amended judgment was entered reducing Defendant's sentence to 270 months, consisting of 210 months as to Count 1 and 60 months as to Count 7, to be served consecutively. On September 9, 2011, a second amended judgment was entered reducing Defendant's sentence to 180 months, consisting of 120 months as to Count 1 and 60 months as to Count 7, to be served consecutively. A third amended judgment was entered on February 23, 2012, which judgment reduced Defendant's sentence to 160 months, consisting of 100 months as to Count 1 and 60 months as to Count 7, to be served consecutively. Finally, a fourth amended judgment was entered on February 9, 2015, which reduced Defendant's sentence to 144 months, consisting of 84 months as to Count 1 and 60 months, consecutive, as to Count 7. Defendant was released to supervision on or about October 30, 2015.

This matter is before the court on Defendant's motion for termination of supervised release, which motion was filed on October 30, 2019. The court has conferred with United States Probation

Officer Eugene E. Rodillo, Jr., who informs the court that Defendant is not in substantial compliance with all conditions of supervision in that he tested positive for amphetamine and methamphetamine on January 16, 2019. Assistant United States Attorney William K. Witherspoon also opposes early termination.

Considering the factors set forth in 18 U.S.C. § 3553(a) to the extent that they are applicable, the court finds that the interests of justice will not be served if termination of supervision is granted at this time. See 18 U.S.C. § 3583(e). Defendant's motion for early termination of supervised release (ECF No. 186) is **denied**, without prejudice. Defendant is encouraged to remain in compliance with all conditions of supervision.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina

November 25, 2019